

March 4, 2013

Memorandum of Understanding
among
City of Newport, Oregon ("City"),
Newport Urban Renewal Agency ("Agency")
and
Oregon Museum of Science and Industry ("OMSI")

Recitals

- A. The City and Agency have established an overall infrastructure plan for the South Beach area, as depicted in the Coho/Brant Infrastructure Refinement Plan, dated August 2012 (the "Plan"). All Parties desire to work collaboratively to implement the Plan in a coordinated and equitable fashion in order to further neighborhood improvement goals. Except where the context otherwise indicates, when used herein the term "Parties" means City, Agency, and OMSI.
- B. As OMSI contemplates development of its South Beach property as a world-class educational center and begins the fundraising process, OMSI requires a degree of certainty as to the cost and timing of infrastructure improvements in the area.
- C. In order to implement the Plan, the City and Agency require certain right-of-way and easement dedications from OMSI for SW 30th Street and SW Abalone Street.
- D. Internal to the OMSI property, there are currently unutilized rights-of-way that may interfere with the logical and/or efficient use of the property. City, Agency, and OMSI desire that these rights-of-way be vacated in order to allow OMSI development to proceed.
- E. Agency has identified funding for certain projects in the South Beach area, including for SW Abalone, SW 30th, a multi-use pathway along SW Abalone, and improvement of the Coastal Gully area on the northern portion of the OMSI property.
- F. The Funding Plan for SW Abalone and SW 30th relies on a combination of Agency (urban renewal) funding and private property owner funding. Cost sharing between private property owners should be equitable, based on the proportionate share of street frontage for each project, which may involve creation of an LID, as addressed within this MOU.
- G. The Coastal Gully areas on and adjacent to the OMSI property represent sensitive and treasured resources. The Parties intend to see these areas enjoy permanent protection with limited public access.
- H. Similar to SW Abalone and SW 30th, fully implementing the projects identified in the Plan will require the financial participation of property owners in the area, including OMSI. The parties

share the goal of determining the appropriate timing for these improvements and an equitable distribution of those costs among benefitted owners.

- I. Project costs referenced herein are derived from conservative estimates included in the Plan and represent OMSI's proportional share of the planned improvements to SW Abalone and SW 30th. The figures assume roughly \$1,000 per lineal foot to construct a half-street improvement, as opposed to the \$1,400 per lineal foot assumed in the Plan for full build-out of these streets.

Agreement

1. Property Dedications – Abalone Extension and SW 30th

- a. Agency shall pursue the subdivision or partitioning of property owned by OMSI and the City, as depicted in Exhibit A, for the purpose of establishing a final alignment for the extension of SW Abalone Street and SW 30th Street. Such application may include adjoining property owned by Investors XII, LLC and Richard Murry (dba Toby Murry Motors) provided they are willing to participate in the platting effort.
- b. OMSI and the City will collaborate to determine the best design approach for incorporating a shared-use pathway on the west side of SW Abalone and south side of SW 30th Street. OMSI will provide easements, as needed, to accommodate the pathway(s).
- c. Agency will incorporate into the subdivision or partition plat easements for the pathway(s), or any other services needed to facilitate development of the OMSI property, provided such information is available at the time the plat is prepared.
- d. City will initiate vacation proceedings as part of the platting process for the existing platted rights-of-way within the boundary of the OMSI property, including portions of SW Coho Street, SW Brant Street, SW 31st Street, SW 32nd Street, SW 33rd Street and 18-foot of residual road right-of-way that may exist along the south line of the OMSI property as shown on the plat of Waggoner's Addition to South Beach, as shown on the attached Exhibits A and B. Where needed, as determined by the City in its sole discretion, easements will be retained to accommodate existing and future utilities.
- e. OMSI agrees to dedicate a right-of-way for SW 30th Street and the extension of SW Abalone Street. The right-of-way width for the extension of SW Abalone Street and SW 30th Street shall be in substantial conformity with the recommended width depicted in the Plan, as illustrated on Exhibit D.
- f. In keeping with the timeline in 4.a., OMSI and Agency shall work together in good faith to determine the contribution value of the rights-of-way and easements to be dedicated by OMSI for the purposes of accommodating parks and transportation improvements in the area. In determining what credit, if any, OMSI should receive for these dedications, the parties will consider such elements as previous right-of-way dedications, rights-of-way to be vacated, Agency costs to subdivide or plat the property, and the December 2011 purchase price of the OMSI property. The parties may utilize an independent appraiser, paid for by the Agency, to assist in the determination of value.

- g. Based on the outcome of the valuation described in 1.f above, Agency shall, at its sole discretion, either compensate OMSI for the value, if any, of the right-of-way and easement dedications, or accept the value of the dedications as offsetting OMSI's required financial contributions to the SW Abalone and SW 30th projects as a benefitted property owner, per 3.c., below.
- h. Agency shall incur all costs attributed to the subdivision or partition process, including surveying, plat preparation, appraisal fees and permit and recording fees.

2. Coastal Gully Preservation

- a. OMSI and the City will collaborate on a program to preserve, in perpetuity, environmentally sensitive Coastal Gully areas on their respective properties, as generally depicted on Exhibit C, through the use of Lincoln County's Conservation Easement program or similar mechanism. The precise area to be included in the conservation easement will be mutually agreed by OMSI and the City. The goal of both Parties is for these areas to be managed in a manner that allows them to be used as part of OMSI's environmental education curriculum while providing for low impact public access to the areas as envisioned in the Plan.
- b. OMSI and the City recognize that this collaboration may result in their respective land ownership and rights-of-way within the Coastal Gully area being consolidated into a single lot or parcel through the platting process and that it may be necessary to put in place conservation easements over the affected areas.
- c. To the extent that OMSI has any Parks System Development Charge liabilities stemming from any permanent residential uses that may be developed on the site, it is anticipated by the parties that these charges may be offset by the value of the Coastal Gully areas that are permanently preserved by Conservation Easements or other similar means. Such offset is permissible because the City's Parks Capital Improvement Plan (CIP) calls for the acquisition and development of trails in South Beach, the Coho/Brant Infrastructure Refinement Plan envisions such trails at this location, and the System Development Charge methodology allows credits for qualifying public improvements or dedications for projects listed in the CIP. The value of these Coastal Gully areas will be established as part of the Conservation Easement process through the Lincoln Land Legacy Program. OMSI and the City will collaborate to define the conditions of public access to the Coastal Gully area taking into consideration the intended use of the OMSI property.

3. Cost Responsibilities - SW 30th Street and SW Abalone Extension Projects

- a. SW 30th Street, SW Brant to SW Abalone - OMSI's financial contribution shall be limited to 52.4% of the total project costs or \$165,000, whichever is less.
- b. SW Abalone Street Extension, SW 29th to SW 35th - OMSI's financial contribution shall be limited to 18.8% of the total project costs or \$335,000, whichever is less.
- c. To the extent that OMSI is due any payment or financial consideration for the value of the rights-of-way and/or easements to be dedicated for the SW 30th and SW Abalone projects as

described in 1.f above, such payment or consideration may, at Agency's discretion, be applied as a credit against OMSI's financial contributions as defined in 3.a and 3.b above.

- d. At OMSI's request, City will initiate a Local Improvement District ("LID") formation process for the SW 30th Street and/or the SW Abalone Extension project. The LID may be a single owner (e.g., OMSI only) LID or, at City's discretion, may include abutting owners who receive benefit from the projects. Should an LID be formed, City may require that SW Abalone Street be constructed to its full planned dimensions as described in the Plan. The City shall allow OMSI, at its request, to finance its LID assessment for a period of up to 30 years through an installment payment agreement per ORS 223.210 and 223.215, and NMC 12.05.055.

4. Project Timing – SW 30th Street and SW Abalone Extension Projects

- a. The Parties agree to work collaboratively to develop a Project Schedule for the phased development of the OMSI property and related infrastructure improvements in the area. The schedule will define the specific dates for infrastructure project delivery such that OMSI site preparation and construction activities may proceed by July 1, 2014 in order to achieve a camp opening by April 1, 2016.
- b. Consistent with the Project Schedule developed under 4.a above, the City and/or Agency will either:
 - i. Provide the necessary funding, in combination with OMSI's financial contributions, such that OMSI's Phase I development may proceed and open; or
 - ii. Revise the scope of required infrastructure such that OMSI's Phase I development may proceed and OMSI does not exceed the total amount of financial participation as described in 3.a and 3.b above.

5. Safe Haven Hill Tsunami Evacuation Route Enhancements

- a. City has constructed interim improvements that enhance access to the designated tsunami evacuation area immediately northeast of the OMSI property, known as Safe Haven Hill. City is committed to maintaining those improvements, which consist of a gravel access path and cleared assembly area at the top of the hill.
- b. City has further applied for and received preliminary approval from the Federal Emergency Management Agency (FEMA) to further enhance the assembly area with a paved shared-use path, sidewalks, trails, stairs and a disaster supply shed. City will construct the enhancements once FEMA obligates matching funds for the work.
- c. OMSI acknowledges that these enhancements are important to the success of its educational center, will continue to support implementation of the improvements, and will install wayfinding signage and provide informational materials to its guests so that they understand the purpose for, and route to, the evacuation assembly area.

6. Delivery Schedule

- a. The Parties will work in good faith to complete their respective responsibilities under this MOA in time to allow OMSI site preparation and construction activities to proceed on OMSI's property by July 1, 2014.

7. Non-Binding MOU

- a. It is the intent of the Parties to work together in good faith to implement the terms of this MOU such that development on the OMSI property may proceed and the infrastructure projects in the area are delivered in an efficient and equitable manner. However, this agreement is non-binding on the Parties and represents only the intent of the Parties with respect to the subjects herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum on the dates show hereunder,

City of Newport by

Newport Urban Renewal Agency by

Signature: Sandra N. Roumagoux

Signature: Richard M. Beemer

Printed Name/Title:
Sandra Roumagoux, Mayor
169 SW Coast Hwy
Newport, Oregon 97365

Printed Name/Title:
Richard Beemer, Chair
169 SW Coast Hwy
Newport, Oregon 97365

Date: 3/8/13

Date: 3/8/13

Oregon Museum of Science and Industry by

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Signature: Nancy Stueber

Printed Name/Title:
Nancy Stueber, President and CEO
1945 SE Water Ave
Portland Oregon 97214

Date: 3/13/13